

c. Remarks

Claims 1-26 stand rejected. Claims 1-26, as amended, are pending in the application.

1. Interview Summary

As stated in the Interview Summary dated December 21, 2005, a telephone interview was held on December 13, 2005 between Examiner Noah Hawk, Examiner Jose Chen, Mr. Robert Oidtman and the belowsigned. Mr. Oidtman discussed benefits of his invention, and some material added in the CIP. The Examiners checked and reported that the CIP has not yet been docketed. (No Office action has been received yet in that CIP, pending Application # 10/826,753, which was filed on April 16, 2004.)

The claims of record were generally discussed, particularly Claims 1, 22, and 25. The Aberle cited reference was discussed. Applicant briefly discussed possible incorporation of Claims 22 and/or 25 into the parent claim. The benefit of Applicant's bracket hole arrangement was discussed. Agreement was not reached; remarks and amendments to the application will be addressed by the Examiner once this response has been received in the US Patent & Trademark Office.

2. Claim Objection

Claims 23 and 24 have been objected to because Claim 23 depends from Claim 24. Claim 24 has been amended to depend from Claim 22. The objection is believed to have been obviated. Amended Claim 23 depends from Claim 22.

3. Rejection under §112, first paragraph

Claims 9 and 10 stand rejected under 35 USC 112, first paragraph. Claim 9 has been amended to depend on independent Claim 7 rather than cancelled Claim 2. No new

matter has been introduced by this amendment. It is believed that amended Claim 9 is clear. Claim 10 depends on Claim 9.

4. Rejection under §112, second paragraph

Claims 13, 14, 18, 19 and 21-25 stand rejected under 35 USC §112, second paragraph. Claim 14 has been cancelled. Claims 13, 18, 19, 21, 23, and 25 have been amended as follows:

Claim 13 has been amended to provide antecedent basis for “the hook mechanism”.

In Claim 18, “the table attachment” in line 9 now reads “a table attachment”.

In Claim 19, “each bracket wall bolt” in line 13 now reads “a bracket wall bolt”.

In Claim 21, “the table attachment mechanism” in line 9 now reads “a table attachment mechanism”.

In amended Claim 23, “an outdoor accessory assembly” now reads “a flower pot outdoor accessory assembly”. Antecedent basis is found in the last paragraph on page 13 of the specification and in FIG. 27.

In amended Claim 25, “the outdoor accessory assembly” in line 16 now reads “an outdoor accessory assembly”. Thank you.

Claim 24 depends on Claim 22. Note that although Claim 22 is listed in the first sentence of paragraph #5 of the Office action, no specifics are provided in the text of paragraph #5.

It is believed that the claims particularly point out and distinctly claim the subject matter. No new matter has been introduced by this amendment.

5. Rejection under §102(b)

Claims 1-3, 11, 12 and 14 stand rejected under 35 USC §102(b) as being anticipated by Aberle. These claims have been cancelled.

6. Rejection under §103(a)

Claims 1-3, 11, 12 and 14 stand rejected under 35 USC §103(a) as being unpatentable over Aberle. These claims have been cancelled.

Claims 4 and 6 stand rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 1, and further in view of the Wright, Sr. design patent.

Claim 5 stands rejected under 35 USC §103(a) as being unpatentable over Aberle and the Wright, Sr. design patent as applied to Claim 4, and further in view of Tennant.

Claims 7 and 8 stand rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 3, and further in view of Dysarz.

Claims 9 and 10 stand rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 2, and further in view of Ege.

Claim 13 stands rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 12, and further in view of Ericksen.

Claim 15 stands rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 3, and further in view of Lee.

Claims 16-18 stand rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 3, and further in view of Fetter.

Claim 19 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of Dysarz as applied to Claim 7, and further in view of Burton.

Claim 20 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of the Wright, Sr. design patent as applied to Claim 4, and further in view of Dysarz.

Claim 21 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of Dysarz and Burton as applied to Claim 19, and further in view of Fetter.

Claims 22 and 23 stand rejected under 35 USC §103(a) as being unpatentable over Aberle as applied to Claim 3, and further in view of Malinao.

Claim 24 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of Malinao as applied to Claim 23, and further in view of Brumfield.

Claim 25 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of Malinao as applied to Claim 22, and further in view of Anderson.

Claim 26 stands rejected under 35 USC §103(a) as being unpatentable over Aberle in view of Fetter, and further in view of Malinao.

Applicant respectfully disagrees with the rejections, though the claims have been voluntarily amended.

Amended Claim 4 includes limitations: (a) from its parent, cancelled Claim 1 (except the phrase “with the bracket shaft being openable to a hole in the raised flooring surface” is excluded for clarity); (b) regarding inner and outer bracket holes 21a, b [see Claim 4(a)]; (c) the pole is one-piece [see Claim 4(b)]; and (d) from Claim 22 regarding the cap step down plug, which is removable [see Claim 4(c)]. A few sentences regarding the inner/outer bracket holes 21 have been incorporated into page 7 of the specification (see “Amendments to the Specification”, above). These inner/outer sets of bracket holes 21 are clearly seen in the figures, especially in FIGS. 1, 2, 3, 5, and 9. Antecedent basis is also provided on page 7, lines 21-22, page 8, lines 22-23, page 9, lines 12-13, and page 10, lines 15-16 of the specification. FIGS. 1-6 and 9, which already designated item number 21, have been revised slightly to mark 21a (inner) and 21b (outer). These figures have been marked “Replacement Sheet”. A full set of figures is enclosed. Claims 5, 6, and 20 depend on amended Claim 4.

Aberle does not teach inner and outer sets of bracket holes for decreasing the likelihood that a bracket will rotate or dislodge over time [see Applicant’s Claim 4(a)]. The Wright, Sr. design patent does not disclose cushioning, a *removable* cap plug, or a *one piece* pole (see Claim 4).

Malinao’s patent for a microphone boom holder (believed to be nonanalogous art) fails to disclose a removable cap step down plug [Applicant’s Claim 4(c)]. Malinao shows a pretty permanent attachment to the assembly by a positioning nut 4, washer 3, and threaded portion 5 (see his FIG. 1A). In contrast, the base of an umbrella or other item inserted into Applicant’s cap step down plug need not be threaded /modified. Applicant’s

cap step down plug is not permanently attached, so it is quite versatile. Also, Malinao does not show a bolt shaft extending *transversely* through the cap step down plug bottom section per Applicant's Claim 4(c) (iv) (so that the umbrella base, for example, can rest on the shaft). Also see Applicant's FIGS. 24-27.

Amended, independent Claim 7 (re bracket wall holes 22A, etc.) includes limitations from cancelled Claims 1 and 3, and the inner and outer bracket holes 21a, b limitation in Claim 7(a). Claims 8-19 and 21-25 depend directly or indirectly on Claim 7. Note that amended Claim 22 (now includes "removable" and "removably") depends on independent Claim 7. Although various claims have been voluntarily amended, no new matter has been added.

Applicant submits that neither Aberle nor Dysarz disclose inner and outer bracket holes 21a, b, per Claim 7(a), for decreasing the likelihood that a bracket will rotate or dislodge over time (see above). Note that in contrast to Applicant's invention, Dysarz' pier rod and tool holding device requires space between boards, largely rests on the deck, and requires disassembly to eliminate obstructions. Also, according to MPEP 2143.01, the prior art must suggest the desirability of the combination of references. There must be a suggestion or motivation provided in the reference. Here, Applicant respectfully submits that there is no suggestion or motivation provided.

Although Applicant respectfully disagrees with the rejections, Applicant seeks to gain an auspicious allowance and has therefore voluntarily amended the claims. Applicant would be pleased to supply additional information in support of this application. Applicant requests that these amendments be made of record in the case and considered by the United States Patent and Trademark Office Examiner, and that the claims as amended be allowed.

Respectfully submitted,

The Harleston Law Firm, LLC

By: Kathleen M. Harleston

Kathleen M. Harleston



Attorney for Applicant
Registration No. 33,398

Date: January 20, 2006

The Harleston Law Firm, LLC
909 Tall Pine Road
Mt. Pleasant, SC 29464
843-971-9453 Phone
843-971-9505 Fax
kathleen@harlestonlawfirm.com

Certificate of Mailing

I hereby certify that the attached correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: The Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on January 20, 2006.

Signature: Kathleen M. Harleston
Kathleen M. Harleston